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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,650	10/22/2003	Haruo Akiba	244334US3	5962

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EXAMINER

KASZTEJNA, MATTHEW JOHN

ART UNIT PAPER NUMBER

3739

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/689,650

Applicant(s)

AKIBA, HARUO

Examiner

Matthew J. Kasztejna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-17 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 12-17 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Notice of Amendment***

In response to the amendment filed on May 4, 2006, new claims 12-17 are acknowledged. The following new grounds of rejection are set forth:

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,715,360 to Akui et al. in view of U.S. Patent No. 5,863,286 to Yabe et al.

**In regards to claim 12**, Akui et al. discloses a valved plug 28 to be fitted on a mouth piece 22 at an inlet opening of an instrument entrance passage leading to a biopsy channel 24 of an endoscopic insertion tube, the plug being formed of a resilient material in its entirety and having, at opposite ends of a foldable connecting strip 34, a generally tubular main body portion 30 internally formed with a constricted passage 46 of a smaller diameter as compared the inlet opening of the instrument entrance passage, in a radial partition wall 44 located at an intermediate portion between outer and inner ends thereof, and a nesting piece adapted to be detachably coupled with the main body portion and having a normally closed slit valve 58 (see Fig. 4) in axial alignment with the constricted passage in the main body portion to permit insertion of an

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instrument therethrough: an annular inward interlocking projection 40 provided at an outer end of the main body portion to be coupled with the nesting piece, the interlocking projection being axially spaced from the radial partition wall by an annular groove 42 formed on an inner periphery of the main body portion; the slit valve provided in a circular fitting body portion of the nesting piece to be fitted in the main body portion (see Col. 3, Lines 47-50); an annular interlocking groove 56 formed around an outer periphery of the fitting body portion of the nesting piece, and an annular interlocking flange 52 provided at an inner end of the fitting body portion in such a way as to leave a free space 60 between the radial partition wall on the main body portion and the fitting body portion of the nesting piece to permit easy inward deformation of the slit valve toward the constricted passage when opened by insertion of an instrument (see Figs. 2, 6 and 7). Akui et al. are silent with respect to wherein the annular interlocking projection on the main body portion has a thickness greater than an axial width of the annular interlocking groove on the fitting body portion of the nesting piece, and an inside diameter smaller than a root diameter of the annular interlocking groove on the fitting body portion, to hold the annular interlocking projection in a compressed state by a bottom surface and riser wall portions of the annular interlocking groove when the nesting piece is coupled with the main body portion. Yabe et al. teach of an analogous valved plug wherein the nesting piece is provided with an annular interlocking groove around an outer periphery thereof, the interlocking groove being narrower the predetermined thickness of the interlocking projection and adapted to grip the interlocking projection tightly in a compressed state from upper lower and inner sides,

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and the slit valve being located in an axially spaced position from the constricted passage and opened toward the constricted passage upon insertion of an instrument (see Figs. 5 and 11 and Col. 10, Line 57 - Col. 11, Line 21). It would have been obvious to one skilled in the art at the time the invention was made to ensure a compressed fit between the main body and the nesting piece of Akui et al. to ensure a more secure fit between the nesting portion on the main body of the valved plug, as taught by Yabe et al.

**In regards to claim 13,** Akui et al. discloses a valved plug, wherein the main body portion of the plug is provided with an annular ledge 36 at an inner end to be fitted on an anchor rim of the mouth piece (see Fig. 2).

**In regards to claim 14,** Akui et al. discloses a valved plug, wherein the nesting piece is provided with a concavely hemispherical instrument guide surface 53 on an outer side to guide an instrument toward the slit valve (see Fig. 2).

**In regards to claim 15,** Akui et al. discloses a valved plug, wherein the circular fitting body portion of the nesting piece is provided with a hollow cavity 54 centrally of the annular interlocking flange immediately on the inner side of the slit valve facing the free space (see Fig. 2 and Col. 3, Lines 58-59).

**In regards to claim 16,** Akui et al. discloses a valved plug, wherein the slit valve is formed in a thin wall portion 56 between the hemispherical instrument guide surface and the hollow cavity of the nesting piece (Fig. 2).

**In regards to claim 17,** Akui et al. discloses a valved plug, wherein the thin wall portion is formed inward of the annular interlocking groove on the outer periphery of the

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fitting body portion of the nesting piece, biasing the slit valve toward a closed position by the annular interlocking projection which is in pressed engagement with the annular interlocking groove (see Fig. 2).

### ***Response to Arguments***

Applicant's arguments with respect to claims 12-17 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

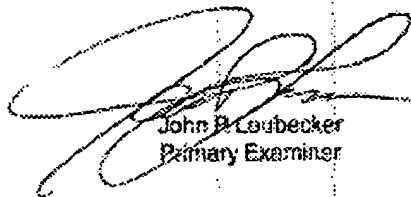
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJK *MJK*

7/19/06

  
John P. Loubeker  
Primary Examiner